

**REMARKS**

The Examiner's Office Action of April 26, 2004 has been received and its contents reviewed. Applicants would like to thank the Examiner for the consideration given to the above-identified application. Claims 1, 2 and 9-11 are pending for consideration, of which claim 1 is independent. Applicants respectfully request reconsideration and allowance of all the pending claims.


Referring now to the detailed Office Action, the Information Disclosure Statement filed January 26, 2004 is indicated as failing to fully comply with 37 C.F.R. 1.98(a) because DE 951045 and DE 1180537 do not include a concise explanation of the relevance. In accordance therewith, Applicants provide herewith English language summaries of DE 951045 and DE 1180537. Additionally, Applicants have provided a clean copy of the PTO-1449 listing the DE 951045 and DE 1180537 documents. Accordingly, Applicants request that the examiner initial the clean copy of the PTO-1449 to indicate consideration.

Claims 1, 2 and 9-11 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 10/353,050. Applicants hereby request that this rejection hereby be withdrawn for the reasons provided below.

As noted in MPEP § 804, "If the 'provisional' double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent..." Accordingly, Applicants respectfully submit that since the provisional double patenting rejection is the last remaining rejection in this case, and the copending Application No. 10/353,050 has yet to be examined, the provisional rejection of claims 1, 2 and 9-11 be reconsidered and withdrawn.

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise which could be eliminated through discussions with Applicants' representative, then the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

Respectfully submitted,

*for*  Reg. No. 41,467  
Donald R. Studebaker  
Registration No. 32,815

DRS/BCO

NIXON PEABODY LLP  
Suite 900, 401 9<sup>th</sup> Street, N.W.  
Washington, D.C. 20004-2128  
(202) 585-8000